



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/779,799	02/08/2001	Andrew G. Avinger	34753/79317	6750

7590 03/04/2004

Jeanne E. Longmuir
Calfee, Halter & Griswold LLP
1400 McDonald Investment Center
800 Superior Avenue
Cleveland, OH 44114-2688

EXAMINER

CHAN, KO HUNG

ART UNIT	PAPER NUMBER
----------	--------------

3632

DATE MAILED: 03/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/779,799

Applicant(s)

AVINGER, ANDREW G.

Examiner

Korie H. Chan

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 February 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

The amendment filed 1/22/2004 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: The recitation of the downwardly extending members forming the door hanger as being at the angle range of "90 degrees to 75.8 degrees" as discussed further below.

Applicant is required to cancel the new matter in the reply to this Office Action.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "22" has been used to designate both slide member 22 (see page 5, line 15) and bosses 22 and 23 (see page 5, line 28). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claims 1, 8-11, and 17 are objected to because of the following informalities:

The term "through" in the recitation "...define an aperture **thorough**" found in each of the claims 1, 8-11, and 17 are misspelled and should be corrected to - - **through** - - .

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

Art Unit: 3632

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 9, 11, 12, and 14-16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicants recitation reference to the angles the downwardly extending members as being in the specific angle range of "90 degrees to 75.8 degrees" was not disclosed in original specification nor supported by the specification. Also regarding claim 16, "rearwardly facign hook member" on the second downwardly extending portion" constitutes new matter since it was not disclosed in original specification nor supported by the specification. Examiner respectfully disagrees with applicant's claim that there is support for the new claims recitation by citing figure numbers and claim numbers. After a further review, there is no support for the current recitation of the downwardly extending members forming the door hanger as being at the angle range of "90 degrees to 75.8 degrees".

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-13, 15, and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claim 7, line 13, "an aligned detent member" is vague for it is not clear whether this detent is the same detent members

Art Unit: 3632

recited previous on line 5 of claim 7. Same recitation occurs in claim 11, line 16 and claim 17, line 11. Examiner suggest "one of said detent members aligned therewith" as a replacement language therefor. Similarly, in claim 8, lines 14-15, and claim 9, line 23, "an aligned recess" should be corrected to "one of said recesses aligned therewith". Regarding claim 10, line 12, "the adjustable engagement tab" lacks proper antecedent basis. If applicant means "resilient engagement tab", the applicant should be consistent with the language since there are other tabs recited. Inconcise reference to the same component makes the claim vague and indefinite. Regarding claim 12, "said door hanger" lacks antecedent basis. Regarding claim 13, "the second end of the second downwardly extending portion" lacks antecedent basis as well. Regarding claim 15, "said door hanger" lacks antecedent basis.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over European patent publication (EP 0309142A1) to MILLEX, INC. MILLEX discloses a door hanger with a top portion (20) having an end with perpendicular extension being a first downwardly extending portion with forward hook (21) and second downwardly extending portion with rearward hook member (the flared portion at the end of 20) which is resilient. However, MILLEX does not disclose the resilient member (flange with the

Art Unit: 3632

flared portion) is angled from about 90 degrees to 75.8 degrees. MILLEX does show the resilient member at an angle deviating from 90 degrees at first. It would have been an obvious matter of design choice to provide the resilient member at initial angle from about 90 degrees to 75.8 degrees such applicant has not disclosed such specific angles is critical and is advantage over other angles.

Claims 1-8, 10, and 13 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

The allowability of claims 9, 11, and 12 cannot be determined at this time to due the new matter rejection discussed above.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Merlini, Hurrelbrink, Conley, Jr. Larson, Adams, Downing et al, Kramer, and Farrell teach hanger with inverted U-shaped hook.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Korie H. Chan whose telephone number is 703-305-8079. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie Braun can be reached on 703-308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3632

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Korie H. Chan
Primary Examiner
Art Unit 3632

khc
March 1, 2004